



Florida Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Noah Valenstein
Secretary

November 27, 2018

Andrew Wheeler, Acting Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Acting Administrator Wheeler:

Thank you for your agency's investment in cooperative federalism and for empowering states to protect their natural resources and increase citizen engagement. In Florida, safeguarding our environment is a top priority. By delegating federal programs to states, the Environmental Protection Agency (EPA) allows Florida to be even more responsive to our citizens and better ensure the protection of our natural resources, which are vital to our communities, our economy and way of life. To strengthen environmental protection and eliminate redundant regulations, Florida began the public process to obtain assumption of Section 404 of the Clean Water Act (CWA) a year ago. The Legislature approved moving forward with this process with a bipartisan majority.

The CWA has always allowed for Section 404 assumption by states. However, in reality, after 30 years only two states have assumed the program, largely due to bureaucratic roadblocks that make navigating the assumption process too difficult. We are pleased that, over the last year, discussions with your agency and the Army Corps of Engineers (Corps) have led to significant improvements in the process. In particular, the Corps' agreement with the majority opinion of the Assumable Waters Subcommittee ensures clear guidelines for negotiation with the Corps and provides clean jurisdictional boundaries for stakeholders.

However, significant barriers for any state seeking to assume the Section 404 program still exist. That is why we applaud your decision to create a public process for all states and participants to discuss modernizing Section 404 assumption regulations. We encourage you to move forward with this process as quickly and openly as possible. At a minimum, we urge you to address substantive issues, such as Endangered Species Act processes and allowing for long-term project permitting, as well as administrative issues such as partial assumption.

Over the last year, the Florida Department of Environmental Protection has been working closely with all stakeholders, legislators, and our federal partners to obtain Section 404 assumption for Florida. This has included significant public engagement, as well as the Florida Legislative process and the department's rulemaking process. While much progress has been made, if EPA

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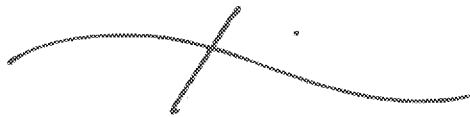
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is unable to address these issues in a Memorandum of Agreement during the assumption process, it becomes all the more critical that they become swiftly addressed during the rulemaking process. By addressing these issues, Florida looks forward to becoming the first state in 24 years to assume authority for the 404 program, leading the way for other states to allow their citizens to more actively engage in the protection of their resources.

Thank you again for your partnership in this process. If you have any questions or we can be of any assistance, please contact John Truitt, Deputy Secretary for Regulatory Programs at (850) 245-2037 or at john.truitt@floridadep.gov.

Sincerely,

A handwritten signature in black ink, consisting of a long, sweeping horizontal line with a diagonal stroke crossing it near the center.

Noah Valenstein
Secretary

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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